

§ 1710.20

officer, however styled, who reports directly to the chief executive officer of the Enterprise. The risk management officer shall report regularly to the board of directors or an appropriate committee of the board of directors on compliance with and the adequacy of current risk management policies and procedures of the Enterprise, and shall recommend any adjustments to such policies and procedures that he or she considers necessary and appropriate.

(c) *Compliance with other laws.* (1) If an Enterprise deregisters or has not registered its common stock with the U.S. Securities and Exchange Commission (Commission) under the Securities Exchange Act of 1934, the Enterprise shall comply or continue to comply with sections 301, 302, 304, 402, and 406 of the SOA, as amended from time to time, subject to such requirements as provided by § 1710.30 of this part.

(2) An Enterprise that has its common stock registered with the Commission shall maintain such registered status, unless it provides 60 days prior written notice to the Director stating its intent to deregister and its understanding that it will remain subject to the requirements of sections 301, 302, 304, 402, and 406 of the SOA, as amended from time to time, subject to such requirements as provided by § 1710.30 of this part.

[70 FR 17312, Apr. 6, 2005]

Subpart C—Indemnification

§ 1710.20 Indemnification.

(a) *Safety and soundness authority.* OFHEO has the authority, under the Act, to prohibit or restrict reimbursement or indemnification of any current or former board member or any current or former executive officer by an Enterprise or by any affiliate of an Enterprise in furtherance of the safe and sound operations of the Enterprise.

(b) *Policies and procedures.* Each Enterprise shall have in place policies and procedures consistent with this part for indemnification, including the approval or denial by the board of directors of indemnification of current and former board members and current or former executive officers. Such policies and procedures should address, among

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other matters, standards relating to indemnification, investigation by the board of directors, and review by independent counsel.

Subpart D—Modification of Certain Provisions

§ 1710.30 Modification of certain provisions.

In connection with standards of Federal or state law (including the Revised Model Corporation Act) or NYSE rules that are made applicable to an Enterprise by §§ 1710.10, 1710.11, 1710.12, 1710.17, and 1710.19 of this part, the Director, in his or her sole discretion, may modify the standards contained in this part in accordance with 5 U.S.C. 553 and upon written notice to the Enterprise.

[70 FR 17312, Apr. 6, 2005]

PART 1720—SAFETY AND SOUNDNESS

Sec.

1720.1 Authority.

1720.2 Safety and soundness standards.

APPENDIX A TO PART 1720—POLICY GUIDANCE;
MINIMUM SAFETY AND SOUNDNESS REQUIREMENTS

APPENDIX B TO PART 1720—POLICY GUIDANCE;
NON-MORTGAGE LIQUIDITY INVESTMENTS

APPENDIX C TO PART 1720—POLICY GUIDANCE;
SAFETY AND SOUNDNESS STANDARDS FOR INFORMATION

AUTHORITY: 12 U.S.C. 4513(a), 4513(b)(1), 4513(b)(5), 4517(a), 4521(a)(2) through (3), 4631, 4632, and 4636.

SOURCE: 67 FR 55693, Aug. 30, 2002, unless otherwise noted.

§ 1720.1 Authority.

(a) *Authority.* This part is issued by the Office of Federal Housing Enterprise Oversight (OFHEO) pursuant to sections 1313(a), 1313(b)(1), and 1313(b)(5) of the Federal Housing Enterprise Financial Safety and Soundness Act (Act) (12 U.S.C. 4513(a), 4513(b)(1), and 4513(b)(5)). These provisions of the Act authorize OFHEO to take any action deemed appropriate by the Director of OFHEO to ensure that the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (the Enterprises) are operated in a safe and sound manner, including by

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adopting supervisory policies and standards by regulation, guidance, or other process.

(b) *Preservation of existing authority.* No action by OFHEO undertaken with reference to a policy guidance or this regulation will in any way limit the authority of the Director otherwise to address unsafe or unsound conditions or practices, or other violations of law, rule or regulation. Action with reference to a policy guidance or this regulation may be taken separate from, in conjunction with, or in addition to any other supervisory response, enforcement action, or agency-imposed requirements deemed appropriate by OFHEO. Nothing in this regulation or any guidance issued by OFHEO limits the authority of the Director pursuant to section 1313 of the Act (12 U.S.C. 4513) or any other provision of law, rule or regulation applicable to the Enterprises.

§1720.2 Safety and soundness standards.

Policy guidances as may be adopted from time to time by OFHEO, addressing safety and soundness standards, shall apply to the Enterprises. If OFHEO determines that an Enterprise does not meet a requirement set out in such policy guidance, it may require corrective or remedial actions by the Enterprise, and take such enforcement action as the Director deems to be appropriate.

APPENDIX A TO PART 1720—POLICY GUIDANCE; MINIMUM SAFETY AND SOUNDNESS REQUIREMENTS

A—BACKGROUND AND INTRODUCTION

- I. Background
- II. Introduction

B—OPERATIONAL AND MANAGERIAL REQUIREMENTS

- I. Asset underwriting and credit quality.
- II. Balance sheet growth and management.
- III. Market risk.
- IV. Information technology.
- V. Internal controls.
- VI. Audits.
- VII. Information reporting and documentation.
- VIII. Board and management responsibilities and function.
- IX. Format of policies and procedures.

C—COMPLIANCE PLANS

- I. Notice; submission and review of compliance plan.
- II. Failure to submit acceptable plan or to comply with plan.

A—BACKGROUND AND INTRODUCTION

I. Background. The Federal Housing Enterprises Safety and Soundness Act of 1992, Title XIII of Pub. L. No. 102-550 (the Act) empowers OFHEO to take any such action as the Director determines to be appropriate to ensure that the federally sponsored housing enterprises, Fannie Mae and Freddie Mac, are, among other things, adequately capitalized and operating safely, including by adopting supervisory policies and standards by regulation or other guidance or process.

i. OFHEO herein sets forth the minimum supervisory requirements used by the agency in reviewing the ensuring, the adequacy of policies and procedures of the Enterprises in the areas of: (1) Asset underwriting and credit quality; (2) balance sheet growth; (3) market risks; (4) information technology; (5) internal controls; (6) audits; (7) information reporting and documentation; and (8) board and management responsibilities and functions. If the agency finds that an Enterprise fails to meet any requirement or standard set forth in this pronouncement, the Director may, among other things, require the Enterprise to submit to the agency and implement an adequate plan to achieve timely compliance with the requirement or standard. If the Enterprise fails to submit such an adequate plan within the time specified by the agency or fails in any material respect to implement the plan, the agency may take additional supervisory action. The Director may at any time prescribe such supervisory actions as deemed appropriate to correct conditions resulting from an unsafe or unsound practice or condition or deficiency in complying with regulatory requirements or standards including, but not limited to, issuance of a notice of charges or order, imposition of civil money penalties, or other remedial actions or sanctions as determined by the Director.

ii. The minimum supervisory requirements and standards identify key safety and soundness concerns regarding operation and management of an Enterprise, and ensure that action is taken to avoid the emergence of problems that might entail serious risks to an Enterprise. The minimum supervisory requirements of the Policy Guidance also reflect the need for internal policies and procedures in particular areas that, if not appropriately addressed by the Enterprises, may warrant action by OFHEO in order to reduce risks of loss and possible capital impairment. The proposed minimum requirements set forth herein are intended to effect these